IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 62 OF 2007

Mrs. Najma Ahmed Pasha ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr.V.Y. Mishra, Advocate for the applicant

Mr. U.V. Nikam, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 12TH FEBRUARY, 2007.

P.C.

. Heard Mr. Mishra, learned Counsel for the applicant and Mr. Nikam, learned APP for the State.

2. The applicant seeks to be released in Crime No. 471/2006 registered by Nagpada Police Station for the offences punishable under section 366A and 376 r/w section 34 Indian Penal Code.

3. The prosecution case, in brief, is that the prosecutrix, a girl aged about 16 years, left her parents' place and came to Mumbai in search of livelihood and came into contact with the present applicant. The applicant took her to her house and made

her to do some house-hold work for about 8 months. However, in the month of July the present applicant purchased new clothes for the prosecutrix and took her to the house of co-accused Jenifer. After sometime, the present applicant and Jenifer left the house leaving the prosecutrix in the company of another co-accused Ravi, who tried to molest her. However, she refused. Therefore Ravi contacted Jenifer and the present applicant on phone. Thereafter, the present applicant came back and scolded her and directed her to submit to the wishes of Ravi. After that they locked the house from out side leaving the prosecutrix with Ravi and then she was raped. After that she was taken back to her house by the present applicant. On 18/9/2006, the present applicant took the prosecutrix to Sat Rasta by taxi and by getting telephonic message from the present applicant, other accused Khayal Mohd Jajee Mohd. and Pathan @ Vakil Khan came there. At that time, Prosecutrix was taken to Milan Guest House and was forced to have a sex with said Vakil Khan in a room in that Milan Guest House. when the prosecutrix fell ill and was unable to do any work, she was thrown out from the house by the present applicant and thereafter she narrated the whole incident to the neighbours. Then a

report was lodged with the police on 30th September, 2006 and the offence came to be registered.

5. Jenifer and Vakil Khan are granted bail. However, the present applicant, who is the main accused has been refused bail. The learned Counsel for the applicant states that investigation is already completed and charge-sheet is filed and therefore, there is no justification to refuse bail to the present applicant. After going through the FIR and contents of the police papers, I find that the case of the present applicant may be distinguished from the other two accused, who are granted bail. The present applicant, being a woman, cannot be charged for the offence under section 376 and she is charged for the offence under section 366A, that is, to procure minor girl below 18 years of age with intent or knowledge that she may be forced or seduced to illicit intercourse with any other person. The offence is punishable with imprisonment which may extend to 10 yeas and also to pay fine. The present applicant appears to be main culprit in the matter. As per the statement of prosecutrix, as well as, medical report, she was about 16 years and was minor within the meaning

of section 366A of I.P.C. Therefore, I see no justification to grant bail to the present applicant.

. Application stands rejected.

(J.H. BHATIA, J.)